

FINAL

AD HOC INFORMATION COMMITTEE REPORT ON THE ENERGY MARKET INFORMATION PROCEEDINGS

The Ad Hoc Information Committee

**Michal C. Moore, Commissioner and Presiding Member
David A. Rohy, Ph.D, Vice Chair and Member**

Principal Author

Melissa Ann Jones

Friday, June 12, 1998

ACKNOWLEDGMENTS

The Committee wishes to thank the staff and outside parties who have participated in the Information Proceedings to date. In particular, we express our appreciation for the diligent efforts of the following individuals: Susan Bakker for her insights and editing skills in preparing this report and her extensive knowledge of the subject, Shawn Pittard for his commitment and persistence in acting as Project Manager; Bob Eller for his helpful input in guiding the project, Martha Brook for her creative and forward looking work on the information technology to support data collection; Melissa Jones for her contributions in developing the function activity framework and her initiative in preparing this report; Mike Jaske for his contributions to the Committee's understanding of data-collection and information-related issues and his efforts in defining information functions and activities; Caryn Hough for her input on legal aspects of jurisdictional and function questions and her attention to detail; and Phillis Soresi-Tam for her organizational skills as Project Secretary.

The Committee also thanks the following members of the Information Committee's staff team: Herbert Diaz-Flores, Mike Messenger, Karen Griffin, Ross Miller, and Mike Magaletti.

The Committee expresses our appreciation to our fellow Commissioners and their respective advisors for their helpful insights, comments and suggestions in preparing this report and in helping the Committee to resolve important information-related issues before this Commission.

EXECUTIVE SUMMARY

INTRODUCTION

In May of 1997, the Commission delegated authority to the Ad Hoc Information Committee (AHIC) to preside over a rulemaking to consider changes to both its data collection and confidentiality regulations. The purpose of that rulemaking was to amend and delete existing regulations and adopt new regulations relating to disclosure of Commission records and data collection (including the Quarterly Fuel and Energy Report and the Biennial Forecast and Assessment of Energy Loads and Resources). The Commission initiated this rulemaking in order to keep its data collection, analysis and dissemination requirements in step with a restructured electricity industry.

At the same time, the Commission recognized that the issues related to how it collects, analyzes and disseminates data and processes confidential information may be broader than the Commission's regulatory requirements. For example, during the **ER 96** proceeding, parties discussed a variety of potential changes to the Commission's data-related activities, including preparation of independent supply and demand forecasts, initiation of cooperative efforts with new regulatory entities, and public dissemination of information on system performance, cost and prices.

Due to the Commission's desire to continue discussions on these and related issues, in tandem with the consideration of regulatory changes, the Commission initiated an Order Instituting Information Proceeding (Information Proceeding) in June of 1997. This joined proceeding was intended to serve as the central forum for the discussion of issues associated with the Commission's data-related responsibilities. The discussions in this forum were envisioned to lead to formal rulemaking proceedings, recommendations for statutory changes to the Warren-Alquist Act and Memoranda of Understanding with other state and federal agencies that receive energy data.

ISSUES RAISED IN INFORMATION PROCEEDINGS TO DATE

Over the course of these proceedings the Committee and other parties found that data collection and analysis is inextricably linked to the broader goals and functions that the Commission performs as the state's primary energy agency. The Committee wrestled with issues that go beyond the scope of the rulemaking and Information Proceeding and that go directly to the heart of what the role of government, and more specifically the Commission, should be in the restructured electricity market. While the Commission's **Strategic Plan** and most recent **State Energy Plan** set broad policies with respect to the Commission's roles in the restructured electricity market, much of the discussion in the proceeding centered specifically on the Commission's authority and jurisdiction to carry out functions and activities related to information gathering, dissemination and analysis.

The Committee expended considerable effort in developing an approach that systematically examined the functions and activities that affect our information role, while allowing the Committee to move forward with the task at hand -- developing and implementing regulations. In the end the Committee identified critical links between the information proceedings and other on-going Commission efforts to implement the **Strategic Plan**, reorganize the Commission's internal management structure, and propose revisions to the Warren-Alquist Act. While the Committee does not intend to pursue this further in either the Information Proceeding or the rulemaking, it is coordinating with other Commission Policy Committees on these other efforts to promote consistency throughout the Commission.

AHIC EXAMINATION OF COMMISSION FUNCTIONS AND ACTIVITIES

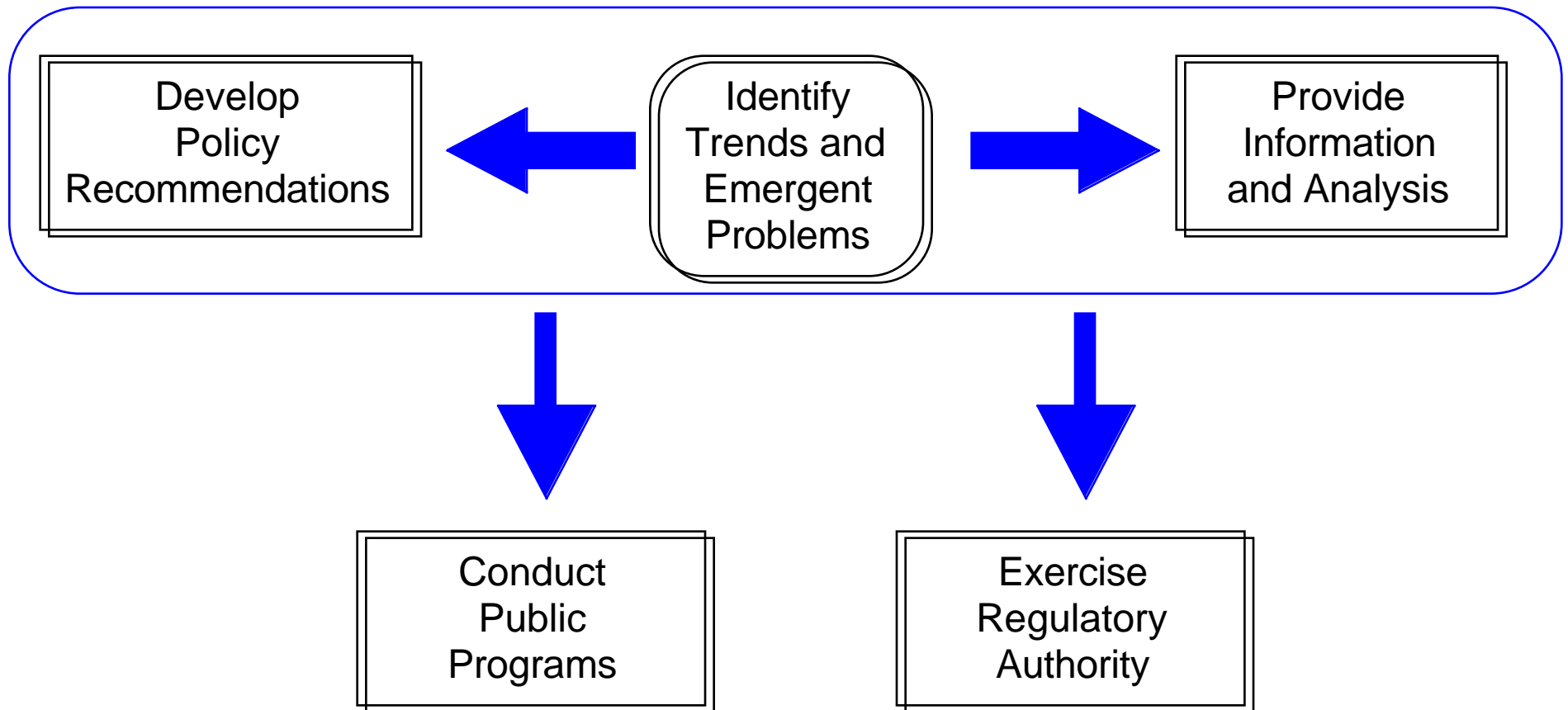
Information gathering, analysis and dissemination are uniquely interrelated to the broad roles and functions of the Commission. The Committee developed a framework which allows examination of information and data functions and activities in the Commission. The Committee identified the five primary Commission functions and the markets, public interests (or public goods) these functions address (shown in **Figure 1**).

Figure 1

Commission Function	Energy Markets/Public Interests
1. Monitor Energy Industries	Oil and Transportation Market
2. Disseminate Information	Natural Gas Market
3. Policy Development	Electricity Market
	Natural Gas Market
4. Conduct Public Goods Programs	Renewable Power Generation
	RD&D
	Alternative Fuels and Vehicles
	Energy Efficiency
5. Implement Regulatory Programs	Energy Facility Siting
	Building and Appliance Efficiency Standards

The Committee also examined the inter-relationships between information and these primary functions. For example, we identified the manner in which information flows into, between and out of these functions. **Figure 2** shows the information links between our five primary functions. For example, under our energy-monitoring function we collect data about energy consumption which we use directly, not only to assess the trends in particular industries, but also for policy development and information dissemination functions. Beyond these direct links, information on energy consumption is an input to public-interest programs such as energy efficiency. It also helps the Commission to make decisions about funding priorities for research and development programs and to evaluate program performance. In a similar manner, energy-consumption data are used in conducting our regulatory programs dealing with appliance and efficiency standards.

Figure 2



SUMMARY OF MAJOR FINDINGS OF FACT, CONCLUSION OF LAW AND POLICY CONCLUSIONS

Based on the record of this proceeding, the Committee makes the following findings of fact and conclusions of law with respect to information-related issues dealing with the Commission's jurisdiction and authority, as well as its roles and functions in the restructured electricity market.

The Committee also made policy conclusions on information-related issues addressed within the proceeding to date. These policy conclusions include principles that will guide the Committee's activities and efforts with respect to data collection and dissemination. The Committee's findings of fact and policy conclusions are summarized below and addressed in more detail in specific responses to parties comments.

Findings of Fact

Restructuring of the California electricity market has fundamentally changed the nature of the electric industry from one that was dominated by highly regulated, integrated utilities, to one that relies to a large extent on market forces and competition. The Committee finds that restructuring the electric-industry, in and of itself, does not eliminate the need for the Commission's electric industry monitoring and policy-development functions as required by statute.

The Commission's monitoring and policy-development functions are supported by several important activities. The activities of conducting electricity system trends analysis (including demand forecasting, supply planning, development of future resource outlooks, and issues/problems identification), analyzing electricity policy and developing policy recommendations remain important to state decision-makers, consumers and market participants.

The Committee notes that the Commission's market facilitation and market transformation roles and functions are being further defined by the Commission through various Policy Committees and internal efforts. The Committee finds that issues regarding data collection to support these roles are not yet ripe for consideration in the rulemaking on data collection. The Committee will, however, begin rulemaking on data collection for its electricity and natural gas industry monitoring and policy-development functions.

Conclusions of Law

The Committee concludes that restructuring of the electricity industry does not change the Commission's authority to collect data necessary for electricity industry monitoring and policy development.

The Committee concludes that there is ample authority for the Commission to move forward with rulemaking on data collection for the Commission's core energy industry monitoring and related policy-development functions under Public Resources Code Sections 25216 and 25216.5(d). There is also sufficient clarity with respect to our roles and responsibilities related to the Commission's electric industry monitoring and policy-development functions to move forward with changes, deletions, and revisions to regulation for data collection, analysis and dissemination in the rulemaking proceeding to commence this summer. The question of what specific data we will collect and from whom will be a primary focus of this rulemaking.

The Committee concludes that the Commission has ample authority to collect data from Energy Service Providers (ESPs) and Utility Distribution Companies (UDCs) and intends to include, where appropriate, ESPs and UDCs in data-collection regulations pursued through the rulemaking. The Committee concludes that ESPs and UDCs meet the definition of utilities under Section 25108 and are, therefore, subject to data-collection obligations. In addition, the Commission has authority to collect data from ESPs under provisions of Sections 25216 and 25216.5(d).

The Committee concludes there is sufficient authority to support a market facilitation and market transformation role for the Commission in the restructured electricity market. The Commission will continue to address issues associated with our appropriate role in facilitating and transforming electricity and other markets.

Policy Conclusions

The Committee concludes that the function a market participant performs in the market, regardless of the ownership or monopoly status of that entity, should define what data it supplies. Participants performing equivalent functions or delivering equivalent services should have equivalent data-submission responsibilities. This broad policy has guided past Commission data-collection efforts and should form the basis of data-collection activities and regulations for both demand-side and supply-side data in the electricity market.

The Committee concludes that AB 1890, SB 90, and SB 1305 confirm state policies that regulatory oversight in the restructured electricity market not be overly burdensome and not impede market forces that will guide the electricity market. The Committee fully intends to pursue data-collection methods in the rulemaking that are not overly burdensome and that embody a least-cost approach to data acquisition for data necessary to support the Commission's core functions.

The Committee concludes that the Commission should streamline its data collection activities, where possible, and pursue only the data necessary to allow the Commission to accurately project loads and adequately model the electricity system as part of its electricity monitoring and policy-development functions. The Committee will entertain new methods to obtain these data in the rulemaking.

On the demand side, this means the Commission needs sufficient data to allow it to assess consumer-choice opportunities and pricing influences in the new market structure that are different from the previous ones, which requires data about consumer behavior. It also requires further development of demand-forecasting models to be able to predict load accurately either for policy analysis or as an input to electricity-system modeling.

On the supply side, this means the Commission needs sufficient or appropriate data to allow it to characterize power plants and the electricity system including fuel use, heat rates, and other characteristics to allow system modeling. It will need system and generation data including ISO/PX prices and quantities to support analytical reports.

As part of streamlining efforts, where possible the Commission should rely on one form or set of forms for all entities who perform the same function in the market (i.e., all generators, regardless of different classes of ownership, file the same generator form or set of forms). The Committee intends to apply this policy principle in pursuing data collection under the rulemaking.

The Committee concludes that the Commission's role in disseminating information for market participants and consumers should be guided by the principles of establishing "value added" and "comparative advantage" as a prerequisite to conducting the activity. The Committee believes the Commission's value added and comparative advantage lie in its ability to convert data into useful and meaningful information and analysis that is objective and independent of market interests.

The Committee concludes that, to the extent information dissemination involves public-interest issues within the Commission's mandate, we have a responsibility to assure this information is readily available and easily accessible to public entities, market participants and consumers. We also conclude that while the market can be relied on to signal market participants' and consumers' needs for information, as suggested by the parties, the Commission cannot rely on the market to determine its own needs for information. The Commission is the appropriate entity to determine our information and data needs and the appropriate means to collect it to meet our responsibilities to the Governor, Legislature and other public entities defined by statute.

RESPONSE TO COMMENTS FROM INFORMATION PROCEEDINGS

BACKGROUND

Throughout the course of the rulemaking and Information Proceeding parties have challenged both the Commission's authority to collect various kinds of data from new market participants and the appropriateness of certain functions and activities such data would support. Staff has filed two papers (a paper addressing demand issues dated October 2, 1997 and a paper addressing supply assessment activities dated December 1, 1997). These papers describe how data might be used in various analytic and market information-dissemination activities. Both papers cited the Warren-Alquist Act and the Commission's ***Strategic Plan*** as evidence of Commission authority and commitment to various activities. Some activities would require continuation of existing data collection efforts while others would have permitted considerable relaxation of existing requirements.

At the December 10, 1997, workshop and later in a January 1998 Notice, the Committee asked Utility Distribution Companies (UDCs) and Electricity Service Providers (ESPs) to provide written comments on these staff papers and the fundamental issues that had been largely responded to orally by external parties up to that time. A series of filings in late February 1998 resulted from this notice. The essence of these filings was to: (1) challenge the Commission's authority to collect data from new market participants, specifically ESPs, and (2) challenge the Commission's commitment to undertake the analytic and market-data dissemination activities discussed by staff in its papers.

Based on its deliberations, the Committee concludes that we have the authority to collect and the responsibility to move forward with rulemaking on data collection for selected activities associated with the Commission's core, mandated function of electricity industry monitoring and policy development. However, the rulemaking will address what specific data to collect and the appropriate means to collect it. The Committee provides the following specific responses to parties' comments.

APPROPRIATE COMMISSION ROLES IN A COMPETITIVE ELECTRICITY MARKET

Stakeholder Comment: Several parties suggested the Commission must re-examine its traditional roles under the Warren-Alquist Act to meet the requirements of the restructured electricity market. Some parties argued that this examination should precede any changes in the Commission's data collection and information functions. Some parties argued that restructuring of the electricity market and reliance on competitive forces eliminates the need for government oversight of the electric industry.

An additional issue with respect to Commission roles involves market facilitation. UDCs argue that the role of facilitating competition in the restructured market, as outlined in the **Strategic Plan**, is one for which the Commission has no authority. They conclude the Commission must seek Legislative approval for this new role.

AHIC Response: The Committee recognizes that restructuring the electricity market has prompted the need to determine appropriate roles for both the public and private sectors. This re-examination has been ongoing within the Commission and at a statewide level for the last few years. The Commission's **Strategic Plan** and **State Energy Plan** note the passage of AB 1890 has focused public efforts on market oversight, system reliability, efficiency, R&D, renewable resources, and on the information needs of energy markets, government and consumers. The Commission has publicly stated that to achieve the benefits of competition, government must continue to facilitate the development of competitive markets by removing barriers such as market-power abuses, lack of accurate, readily available information, unnecessary regulatory requirements, and infrastructure constraints. In addition, the Commission has identified an essential role of government in a more competitive environment; ensuring that consumers have sufficient information to make wise energy-related decisions.

The Committee agrees that clarifying the functions and activities the Commission performs with respect to the restructured electricity market is an important element in the Committee's examination of information issues. As a result, the Committee has undertaken such an examination to help guide its decisions and actions. To this end, the Committee has examined in detail the Commission's roles, functions and activities related to the restructured electricity market, which are addressed below.

Electric Industry Monitoring and Policy Development Continues to be Justified

California's electricity industry has begun a massive restructuring which will continue to unfold well after utilities' stranded-cost recovery is complete. Under the previous regime of heavily regulated, vertically integrated monopolies, data collection to support the Commission's monitoring and policy-development function took the form of actual consumption and generation data submittals, and demand-forecast and resource-plan submittals. Monopoly utilities were principally responsible for making these filings.

Clearly, as the regulated-monopoly regime gives way to one in which the market place is responsible for generation-resource acquisition, some of these data requirements are out of step. However, the Committee believes that the Commission's monitoring and policy-development function continues to be justified, and, in fact, may become even more important as the competitive market develops.

During the transition period, utilities will have the opportunity to recover stranded costs and other market participants will have the opportunity to participate in public-interest programs. During this same period, monitoring and policy development will need to examine how successful industry restructuring and related public-interest programs are, and, to the degree that there are problems, to identify potential solutions.

In the long term, because the electricity industry will continue to provide commodities and services which are essential to the people of California, the Commission's monitoring and policy-development function will continue to be important to State government. At the same time, the Committee is convinced that the form the Commission's monitoring and policy-development function takes, as well as the data the Commission needs to support that function, will need to change, in some cases dramatically, in response to the change in market structure.

Future monitoring and policy-development activities will include analyzing trends and identifying emerging problems and opportunities. The results of these activities will be reflected in periodic reports to the Governor and the Legislature in which the Commission identifies potential solutions to problems or opportunities to exploit further market efficiencies. In summary, while the Committee believes that the Commission's monitoring and policy-development function will continue to be necessary in a competitive electricity market, we need to change the way the Commission carries out that function, and the data-collection and dissemination methods which support that function.

Commission Role in Electricity Industry Monitoring and Policy Development

Based on the Committee's examination of Commission functions and activities related to the electricity market, we conclude that carrying out the functions for electric-industry monitoring and policy development encompass activities which are dependent on the availability of certain critical data. Specifically, the Committee concludes the following with respect to the scope and activities associated with these functions.

The Commission's primary purpose in electric-industry monitoring is to identify trends, and emergent problems and opportunities. The Committee concludes that this monitoring function encompasses the following activities:

Collecting and processing electric-industry data and ensuring that sensitive data are treated in a manner that balances confidentiality and need for public access.

Conducting assessments to identify trends, and emergent problems and opportunities within the industry and from external forces influencing the industry.

Developing integrated electricity/environmental assessment techniques and conducting assessments that contribute to improving our understanding of societal costs and benefits of energy industry activities.

Developing and maintaining a formal electricity shortage contingency plan in coordination with relevant local, state and federal agencies and assessing longer-term reliability issues.

The Commission's primary purpose in developing policy recommendations for the Governor, Legislature, other agencies and the federal government is to reduce the scope and impact of electricity problems and/or inefficiencies. The Committee concludes this policy-development function encompasses the following activities:

Implementing a policy-recommendation process, which ensures that results are based on: 1) timely, relevant and objective information, and 2) a long-term perspective which relies upon the use of market forces, where possible, to achieve societal goals and objectives and balances resource conservation, public health and safety, economic growth and environmental protection.

Developing and delivering periodic reports to the Governor and Legislature that are the basis for California's electricity policy.

Proposing and supporting legislative initiatives and administrative actions dealing with electricity issues.

Advocating Commission policies to local, state and federal agencies or industry trade groups, as appropriate.

For the Commission to successfully monitor the electricity industry and develop policy recommendations, it must conduct electricity-system trends analysis. The Committee concludes there are several important tasks involved in conducting this trends analysis which are supported by essential data. These include:

Demand forecasting.

Publishing historical baseline information.

Monitoring and analyzing new market features.

Evaluating current market performance, including reliability.

Conducting forward-looking policy scenario analysis (including demand and supply assessment and development of future resource outlooks).

Identifying issues, problems and opportunities.

Developing policy recommendations for the Governor and Legislature to serve as the basis for California's electricity policy.

The Committee concludes that there is significant clarity with respect to the Commission's roles and responsibilities in electricity-industry monitoring and policy-development functions to address data collection, dissemination and related information issues in the rulemaking. While the Committee intends to pursue the necessary data to allow the Commission to adequately carry out the purposes and activities associated with these core functions listed above, what exact data we need and how we will collect it will be the major focus of the rulemaking.

Commission Role in Market Facilitation and Market Transformation

The Committee acknowledges explicit endorsement of all kinds of facilitation identified in the **Strategic Plan** is not provided in the Warren-Alquist Act. However, the Act expressly mentions certain kinds of facilitation and implies others by the kinds of activities it directs the Commission to perform. For example, Public Resources Code in Sections 25400-25401.1 provides very strong endorsement of energy-efficiency facilitation.¹

In each of the past two **Electricity Reports**, the Commission has endorsed policies that enhance consumer choice and support activities to ensure that it takes place in a meaningful way. CPUC decisions and legislative actions have followed our lead in stressing this theme. The Commission is now introducing certain consumer-support tools that initiate such activities. It is evident that consumers need both data from the market and a framework to guide their judgments about which of these options are best. To guide development of future support activities, we need to develop a better understanding of the consumer decision-making process and consumers' abilities to absorb information

The Committee concludes that there is sufficient authority to support a market-facilitation and transformation function for the Commission. However, the Committee believes that there is not yet sufficient clarity to begin data collection to support this function in the upcoming rulemaking. The Committee will continue to explore these issues with other Commissioners and Policy Committees.

COMMISSION AUTHORITY FOR DATA COLLECTION & DISSEMINATION

Commission Jurisdiction for Data Collection

Stakeholder Comments: Several commenting parties object to what they characterize as the Commission's expanding its jurisdiction by extending data-collection activities to new entities in the market-place. They further argue that the Commission's Common Forecasting Methodology is no longer appropriate in a restructured market and should not be extended to new market entities.

¹ All cites in the paper are to the Public Resource Code, unless otherwise noted.

AHIC Response: The Committee believes that the Warren-Alquist Act clearly establishes the Commission as the place in state government with responsibility for monitoring energy industries and raising concerns to the Legislature and Governor. The plain language of Sections 25216 and 25216.5(d) give the Commission authority to monitor all energy industries, including electricity, assess trends and identify problems, and to make recommendations to the Governor and Legislature. Sections 25300 et.al. also indicates strong legislative support for a comprehensive Commission role in assessing the state of the electricity industry. As previously discussed, the electricity industry shift toward reliance on competitive forces does not diminish or eliminate this role. In fact, the Commission's experience in monitoring other energy industries which have been subject to competitive forces for some time, such as the oil industry, has demonstrated the importance of this role in providing an early-warning system for impending (or potential) supply and price disruptions. The Commission can help industry and consumers deal with emergency events that, by their very nature, are difficult if not impossible to predict.

The Committee does, however, agree that its' Common Forecasting Methodology, which has been used to carry out our monitoring role, is currently out of step with industry restructuring and should be revised. These mandates were specifically crafted for a fully regulated, vertically integrated, monopoly industry. The electricity industry is no longer dominated by regulated utilities and, therefore, the mandate designed for regulated utilities is no longer consistent with the new industry structure. Accordingly, the Commission has already begun to examine these portions of the Warren-Alquist Act, and the Committee is fully supportive of efforts to change the Act to bring it more in line with today's electricity industry. The Committee's efforts now need to focus on how we can carry out this monitoring responsibility and what alternative data-collection methods are needed to support this function.

Commission Authority Over ESPs

Stakeholder Comment: Several ESPs have raised questions regarding the Commission's legal authority over what they characterize as non-regulated ESPs. They argue that current regulations only require investor-owned utilities and municipalities to report. ESPs assert that, if Section 25108 is the basis of the Commission's statutory authority, ESPs do not meet the definition of "utilities" and, therefore, are excluded from our jurisdiction.

AHIC Response: The Committee notes that ESPs are not wholly unregulated. For instance AB 1890 (1996) and SB 447 (1997) grants the CPUC specific authority over ESPs for the purposes of registering ESPs and providing for consumer protection. With respect to the Commission's jurisdiction over ESPs, the Committee concludes that: 1) ESPs are utilities under Section 25108, and 2) regardless of whether they meet the definition of utilities provided in Section 25108, the Commission has authority to collect data from ESPs under provisions of Section 25216 and 25216.5(d). The Committee recommends that the Commission exercise its' regulatory authority and include all ESPs in data collection activities pursued through the OIR rulemaking. As noted in the summary and discussed in more detail in a later section, the Committee

believes entities performing equivalent functions, or delivering equivalent services, should have equivalent data-submission responsibilities regardless of whether they are monopoly or private entities.

State Policy Regarding Regulatory Oversight of ESPs

Stakeholder Comments: Several parties assert that AB 1890 makes very clear the Legislature's intent to insulate ESPs from burdensome regulatory oversight and that staff's proposals for data collection are antithetical to that broader state policy. Several other parties assert that AB 1890, SB 90, and SB 1305 provide tenets for the electricity industry by which the Commission should abide including: market forces should guide the electricity market and the transition from fully regulated one to one that is significantly less regulated should be orderly. They further assert that the market, not the Commission, should define information needs and data-collection requirements.

AHIC Response: The Committee agrees that the Commission must be diligent in assuring that its oversight of the restructured electricity industry, including ESPs, is not overly burdensome. However, the Committee believes there is an important distinction between the imposition of any requirements and imposition of burdensome ones. To date in this proceeding, ESPs and UDCs have not appeared to be ready to discuss detailed proposals and have instead focused on broad questions of authority and jurisdiction. As a result, there is no evidence in the record to support the assertion by ESPs that staff's proposals are overly burdensome. The Committee believes that release of this report should lay threshold issues to rest and establish guiding principles so that parties should now be willing to engage in detailed proposals and discussions. The Committee fully intends to pursue data-collection methods that are not overly burdensome and that result in the least-costly ways to acquire data and modify regulations. The Committee looks forward to a healthy exchange on these issues.

The Committee fully agrees that market forces should guide the electricity market and the transition should be orderly. To the extent that the Commission is providing data and information to market participants and consumers, we believe that the market, and its participants and consumers, should be the ones to define their information needs. To rely solely on government to define the needs of market participants with respect to information would be inappropriate. Consequently, the Committee is open to the suggestion that some mechanism be developed to allow the industry and consumers to directly provide us with its information needs. However, the Committee does not believe that the Commission can rely on the market to determine the data and information that we must acquire to fulfill our responsibilities to the Legislature and Governor. The Legislature and Governor continue to expect the Commission to carry out these responsibilities and the Commission is the appropriate entity to determine how best to meet these expectations.

Commission Jurisdiction with Respect to Forecasting and Planning and Powerplant Siting

Stakeholder Comments: UDCs take the position that there is no implied authority for the Commission to mandate entities to provide information on how the competitive electricity market is functioning simply because the Commission was granted authority to collect information related to forecasting and planning. UDCs further assert that our traditional planning and data-collection functions were primarily to support regulatory decisions regarding powerplants and that the Commission's desire to utilize data-collection functions to serve as monitor and facilitator of competitive markets is beyond our regulatory jurisdiction.

AHIC Response: As previously noted, the Commission has broad authority to collect data on energy industries and to act as a central repository for data and information on all forms of energy under numerous provisions of the Warren-Alquist Act. This authority is independent of the collection of information specifically for forecasting and planning; it directs the Commission to monitor all energy industries, assess trends and identify problems, and to make recommendations to the Governor and Legislature. As previously discussed, the Committee believes the Commission has adequate jurisdiction to continue our monitoring and policy-development role in the restructured electricity market. The Committee also notes that our monitoring and policy-development function, related to the electricity market, was not applicable to siting powerplants alone; although it was designed to help support our siting role. The Commission has monitoring authority and collects various data for the natural gas and petroleum industries where we have no authority over siting of facilities or infrastructure additions. The Committee believes UDCs have relied on an overly narrow interpretation of the Commission's mandate with respect to data collection and monitoring.

Transition Period for Restructured Electricity Market

Stakeholder Comment: SoCal Gas suggests that the Commission should plan a transition out of the information-gathering function over the next four years to coincide with a phasing out of public-goods charges on electricity.

AHIC Response: As noted above, the Committee believes that the Commission is statutorily committed to an ongoing monitoring function which justifies the need for energy consumption and supply data. The monitoring function is clearly embedded within the Warren-Alquist Act and is distinct from the public purpose programs that the Commission is implementing pursuant to AB 1890 and SB 90. Therefore, linking data collection to public purpose programs, and sunseting data collection if and when these programs are terminated, would be contrary to the Committee's and Commission's interpretations of the Warren-Alquist Act

OTHER INFORMATION ISSUES RAISED IN COMMENTS

Cost-Effective Data Collection

Stakeholder Comments: ESPs raised concerns that staff's proposal for demand-side data would increase the costs of marketing electric power. They note that their already slim margins are unlikely to lead to large discounts, especially for residential customers. ESPs believe that additional data-collection burdens would only raise their costs of doing business and exacerbate this situation.

In raising these issues, commenters note that burdens and costs for them to comply with data-collection requirements, warrant the examination of alternative data-collection and acquisition methods. Parties assert that to comply with demand side data requirements, as outlined in staff's demand paper, would require them to develop a stand-alone information system solely for the purpose of submitting this data. This will require substantial commitment of additional resources and staff. They also note that if they are required to make assignments for the North American Industrial Classification System (NAICS), it will require that they train staff to do this or use outside resources, again imposing resource and staff burdens and costs on them.

Independent Energy Producers' (IEP) comments raised questions about the need for and cost of expanding existing data-collection activities. IEP urged the Committee to address the following concerns: What additional data should be sought? What are the costs of these data-collection activities (who pays, who benefits)? Can the costs and benefits be better aligned? Are more efficient, cost-effective and timely means available to the Commission for collection of data to meet statutory needs?

AHIC Response: The Committee is very concerned with issues pertaining to the costs and benefits of data-collection activities, and the burdens they may impose. The Committee intends to arrive at data-collection methods and regulations that effectively balance the needs and benefits of data access against its costs. So far in the proceeding, however, parties have been focused primarily on the broader issues of the Commission's jurisdiction and legal authority as well as our appropriate functions and activities.

The Committee believes it is now time to examine the critical issue of costs, benefits and least-cost alternatives for collecting specific data necessary to carry out the Commission's core functions. At this point in the proceeding, we have not received specific input from the parties on the costs and benefits of proposals put forward by staff, nor of viable alternative and less costly approaches to acquiring data. The Committee has already requested that staff examine issues on costs, benefits and alternative methods of data collection and analysis. In response to parties' comments the Committee intends to examine alternative data-collection methods for the medium and long-term. These issues will be further addressed in a forthcoming Committee Scoping

Report for the Rulemaking. We believe the rulemaking is the appropriate place to examine these issues in detail. Having resolved major issues of authority and intent, the Committee expects parties to actively participate in this effort.

Function Should Define Data Collection Requirements

Stakeholder Comments: Independent Energy Producers (IEP) suggest it is inappropriate for ESPs to provide data at the same level as UDCs because of their clearly different roles in the marketplace. IEP asserts that UDCs default-provider, monopoly status conveys public-purpose obligations, such as data reporting that do not apply to ESPs.

AHIC Response: While the Committee acknowledges a difference in status between monopoly UDCs and private ESPs, UDCs and ESPs are functionally equivalent with respect to the role they perform in acting as end-use suppliers of electricity services. The Committee believes that the categorization of market participants according to the functions they perform (rather than whether they are monopoly or private) is the appropriate way to determine what data should be collected from which participants. In other words, market participants performing the same or equivalent functions should be required to meet the same or equivalent data-collection requirements. All generators, regardless of whether they are owned by private or public entities or have monopoly status, should fulfill the same data-submission obligations. In the same way, all suppliers, whether they are private ESPs or monopoly UDCs, should be required to file the same or equivalent data.

The question then becomes: What data are necessary for us to collect, and what are the costs and benefits associated with its collection? This weighing of need, as well as costs and benefits, is important to the Committee's rulemaking for modifying and developing regulations dealing with data-collection. The Committee believes the Commission should streamline its data collection activities and investigate alternative means to acquire both supply- and demand-side data and information. The recommended goal is to arrive at least-cost methods that are not overly burdensome to either those who must supply essential data or for the State of California. We will address this in a Committee Scoping Document on the rulemaking.

Stakeholder Comment: ENRON has suggested that the Commission's proper interest in energy consumption and related data will be met through SB 1305, which involves collection of, and Commission access to, data through the California Independent System Operator (CAISO).

AHIC Response: While we agree that full implementation of SB 1305 would provide us with some generation data, it does not provide the Commission with data on powerplant characteristics or consumption data unless specific purchases are claimed. Thus, SB 1305 does not give us access to all of the data that is needed for the Commission to adequately meet its mandated responsibilities. The Committee does agree, however, that system operators may be an appropriate source of some additional data beyond SB 1305 requirements. This will depend, to a large extent, on whether access to system operators' data is the most cost-effective way for the Commission to acquire data, as well as whether system operators can provide the Commission with specific data under their rules and protocols. The Commission is

pursuing discussions with the CAISO on access to data, as well as other issues, including certain functions which the Commission may be able to assist the CAISO, such as reliability assessment and possibly demand forecasting assumptions. The Committee believes these possible relationships between the Commission and all system operators must be clearly defined and suggests that inter-agency agreements or memoranda of understanding are the appropriate means to formalize relationships and respective data sharing and analytical support.

CEC Information Dissemination To Outside Parties

Stakeholder Comment: Some parties have suggested the Commission should not have any role in disseminating information to market participants and consumers on the restructured electricity market. They maintain that private entities are already beginning to provide information on the new market through websites and industry publications, and the Commission should not be competing with private suppliers of information.

AHIC Response: The Committee believes the Commission's role in providing information for market participants and consumers should be guided by the principles of "value added" and "comparative advantage." The Committee believes the Commission should always assess the value we add and comparative advantage we possess for the information we provide. If another party, such as a private entity, is already disseminating certain types of data, the Commission should not expend the resources to disseminate the same data. For example, if market participants and consumers or government can already access data on prices off the web, the Commission does not need to provide or duplicate that service. Alternatively, the Commission can provide a true service by collecting, integrating and disseminating comprehensive data that encompass a larger, even statewide, perspective, but that transcends the scope of information provided by new market participants. The Committee notes that the role in disseminating information to market participants and consumers is separate and distinct from information we provide to the Governor, Legislature and other government entities which to a large extent are defined by statute.

While the Commission has not yet fully integrated these principals into its staff activities, we nevertheless have some suitable examples in recent staff work. Over the last several months, one of the most highly sought-out documents on the Commission's website is the forecast of market-clearing prices. While information on current PX prices is available from the PX, some ESPs and others, the Commission's forecasts of market-clearing prices provides an independent forward look at prices in the restructured market. Over the last several months, many interested parties access that information on a monthly basis. This is an example where the Commission has a comparative advantage through its ability to prepare forecasts that are objective and independent of any market interest. Part of the value added by this forecast lies in drawing useful implications in the form of projected prices from information on current market prices and expected trends.

The Committee believes that the true added value or comparative advantage the Commission holds in disseminating information lies in its analytical insights and capabilities, as well as the Commission's objectivity. Both are relied on to interpret and present meaningful information on the implications of certain data to market participants and consumers. While some individual market participants may be able to provide forecasts of prices, they have clear market interests to protect and consumers are sometimes skeptical of these sources of information when individual market interests are involved. In addition, anti-trust restrictions may prevent individual market participants from gathering and releasing certain data. To the extent that market participants and consumers place value on this kind of information, the Commission should, within its resource constraints, provide it.

Finally, the Commission deals with public interests, including energy efficiency, resource conservation, and environmental protection, which are affected by consumer and market participant behavior and decision making in the restructured market. In order to further state goals and policies regarding public-interest issues, the Commission has an obligation to provide information to consumers and market participants that allows them to better understand the implications and societal costs and benefits of different energy choices. This information represents a public good not likely to be addressed by private entities in the market and points to a need for the Commission to fulfill this unique information role. As previously discussed, the Commission is the appropriate entity to determine the data needs and collection methods to support our dissemination of information to the Governor, Legislature, public entities and the public in general required by statute.

Protection of Confidentiality

Stakeholder Comments: ESPs assert that the disclosure of detailed customer information (on a customer-by-customer rather than aggregated basis) would violate confidentiality provisions in contracts between ESPs, gas marketers and their customers which would result in a breach of contract. ENRON suggests staff proposals focus exclusively on the customer side and fail to adequately address their confidentiality concerns. ENRON further argues that staff's proposal for "interim confidentiality" does not provide adequate protection from competitive disadvantage suffered by ESPs or gas marketers if competitors have access to their energy consumption information.

AHIC Response: The Committee is very sensitive to the confidentiality concerns of both customers and market participants. The Commission has always protected and will continue to protect legitimate trade secrets and individual interests in privacy. The Committee points to the Petroleum Industry Information Reporting Act (PIIRA) as a demonstration of the Commission's capability for collecting sensitive data, keeping it confidential and at the same time using it to produce non-confidential and useful information. The Committee maintains that recent amendments to the Commission's regulations governing disclosure of Commission records achieve balanced protection for market participants and customers in the restructured electricity market. Some

parties might have assumed that staff was proposing to make customer data available to competitors. The Committee clarifies that this is not an accurate assumption. Although some parties continue to prefer a different aggregations method, the recently adopted Confidentiality Regulations contain an aggregation method that the Commission believes adequately protects consumption data and explicitly provides that individual customer data cannot be released.

Natural Gas Restructuring

Stakeholder Comment: SoCal Gas recommends the Commission suspend efforts to enact specific regulations affecting data gathering or reporting by the gas industry until CPUC efforts on gas industry restructuring are complete. They advise the Commission to closely coordinate activities in this proceeding with CPUC gas restructuring proceedings.

AHIC Response: The Committee agrees that CPUC gas restructuring has profound implications for the natural-gas industry, and the Commission is an active participant in that proceedings. However, the Committee believes there will be little that needs to be changed for data collection activities pertaining to natural gas consumption at this stage since gas marketers already provide usage data on their sales of gas to the Commission. For the natural-gas industry, the Commission's data collection activities have reflected the principle of function defining data collection requirements for some time. The Committee will consider some revisions to regulations for data-collection activities associated with the natural gas market, primarily related to the supply side. However, some of the natural-gas restructuring decisions, primarily demand-side issues, will not be reached before conclusion of the rulemaking. Therefore, the Committee believes it is premature for the rulemaking to address those areas of the natural gas market.

Coordination with California Board for Energy Efficiency (CBEE)

Stakeholder Comment: SoCal Gas has raised concerns about overlap with current and planned data collection of the Commission and CBEE. They maintain there is no mechanism to manage conflicts and redundancy in data collection.

AHIC Response: The Committee is concerned about the relationships and respective roles of the Commission and CBEE with respect to energy efficiency. The Commission staff is working with CBEE to clarify roles and responsibilities to avoid conflicts and duplication of effort. The Committee envisions a potential information role for the Commission to support CBEE. The Committee supports staff's efforts to arrive at an interagency agreement or memorandum of understanding with CBEE as the appropriate mechanism to formalize relationships and clarify these issues.